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Attorneys for Defendant, Nathan's Famous, Inc.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

|  |   |                                |
|--|---|--------------------------------|
| JOHN O'DONNELL, RUTHANN HILLAND,             | ) |                                |
| and MICHELE DE SCISCILOLO, for themselves    | ) | Case No. 2:09-cv-04448-JLL-CCC |
| and a class of consumers similarly situated, | ) |                                |
|  | ) | Judge Jose L. Linares          |
| Plaintiffs,                                  | ) |                                |
|  | ) | AFFIDAVIT OF SERVICE           |
| -against-                                    | ) |                                |
|  | ) |                                |
| KRAFT FOODS INC., SARA LEE                   | ) |                                |
| CORPORATION, CONAGRA FOODS, INC.,            | ) |                                |
| NATHAN'S FAMOUS, INC., and MARATHON          | ) |                                |
| ENTERPRISES, INC.,                           | ) |                                |
|  | ) |                                |
| Defendants.                                  | ) |                                |
|  | ) |                                |

I, Eric Merklinger, being duly sworn, depose and say that deponent is not a party to the action, is over 18 years of age and is employed in New York, New York.

I hereby certify that on this 11th day of September, 2009, I caused

- A copy of the letter to the Honorable Claire C. Cecchi USMJ;
- The Declaration of Mr. John C. Dougherty;
- The Certification of Mr. Eliot Kirshnitz;
- Rule 7.1 Corporate Disclosure Statement;
- Notice of Appearance of Mr. Eliot Kirshnitz;

- Proposed Order of Form for the admission *pro hac vice* of Mr. John C. Dougherty as counsel for Defendant Nathan's Famous, Inc.;

To be filed with the Clerk of the United States District Court of New Jersey via CM/ECF system and served via regular mail upon:

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ATTORNEYS FOR DEFENDANT MARATHON ENTERPRISES INC.

I hereby certify that the statements made by me are true and correct to the best of my knowledge and understand that if any of the statements made by me are willfully false, I am subject to punishment.

Sworn to before Me this  
11th day of September, 2009



MARCUS L. GRIFFIN  
Notary Public, State Of New York  
No. 01GR5062272  
Qualified in New York County  
Commission Expires June 24, 2010

  
Eric Merklinger